

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOLOMON SHARBAT, SOLOMON CAPITAL
LLC, SOLOMON CAPITAL 401k TRUST, and
SHELHAV RAFF,

Plaintiffs,

– against –

IOVANCE BIOTHERAPEUTICS, INC., f/k/a
LION BIOTECHNOLOGIES, INC., f/k/a
GENESIS BIOPHARMA INC., and MANISH
SINGH,

Defendants.

ORDER

20 Civ. 1391 (ER)

Ramos, D.J.:

Plaintiffs Solomon Sharbat, Solomon Capital LLC, Solomon Capital 401k Trust, and Shelhav Raff bring this suit against Iovance Biotherapeutics (“Iovance”), formerly Lion Biotechnologies Inc. and Genesis Biopharma, Inc., and Manish Singh for breach of contract and related claims. On October 14, 2021, Plaintiffs filed proposed consent orders for substitution of counsel, signed by the Plaintiffs, outgoing counsel, and proposed incoming counsel Simon Schwarz of the Schwarz Firm PLLC. Docs. 56-59. The next day, Defendants filed their objection to the proposed substitution of counsel. Doc. 60. The Court held a conference on October 19, 2021, at which the Court heard the parties and instructed Schwarz to file a response to Defendants’ objection. On October 27, 2021, Schwarz filed his response, along with a declaration signed by Sharbat in support of the change of counsel and a declaration signed by Schwarz. *See* Doc. 67.

Disqualification of counsel is “a drastic measure that is viewed with disfavor in this Circuit.” *Ritchie v. Gano*, No. 07 Civ. 7269 (VM) (JCF), 2008 WL 4178152, at *2 (S.D.N.Y.

Sept. 8, 2008) (internal quotation marks and citations omitted). Courts must balance “a client’s right freely to choose his counsel” against “the need to maintain the highest standards of the profession.” *Hempstead Video, Inc. v. Inc. Vill. Of Valley Stream*, 409 F.3d 127, 132 (2d Cir. 2005) (citing *Gov’t of India v. Cook Indus., Inc.*, 569 F.2d 737, 739 (2d Cir. 1978); *Emle Indus., Inc. v. Patentex, Inc.*, 478 F.2d 562, 564–65 (2d Cir. 1973)). Given this high threshold, and the representations in Schwarz’s and Sharbat’s declarations, the Court grants the substitution of counsel.

The Clerk of Court is respectfully directed to terminate Michael Nacht and Charles Claudio Simpkins of Carmel, Milazzo & DiChiara LLP as counsel of record and to substitute Simon Schwarz as counsel of record. Schwarz’s request for leave to file a sur-reply is denied as moot.

It is SO ORDERED.

Dated: November 1, 2021
New York, New York



Edgardo Ramos, U.S.D.J.